

1 **Remarks**

2 The examiner rejected claims 11-15 under 35 U.S.C. 103(a)
3 as being unpatentable over U.S. Patent Number 6,164,018 Runge, et
4 al. in view of U.S. Patent Number 6,407,798 B2 Graves, et al,
5 U.S. Patent Number 5,890,323, and U.S. Patent Number 3, 313,068
6 Pinto.

7 The Graves, et al invention is for a theater that has
8 changeable screens for purposes of showing different types of
9 motion picture formats. There is no separation of viewing levels
10 for different classes of patrons and only one single theater is
11 described.

12 Runge, et al, discloses a building with multiple theaters of
13 a like kind located in the building. The theaters are for
14 showing of a single kind of motion picture format and have a
15 single mezzanine area with a single concession facility.

16 Errato discloses a theater structure for presentation of
17 live performances of specific kinds. The stage has a modular
18 design and there are partitions for seating areas. This would not
19 be a suitable structure for motion picture presentations.

20 Pinto discloses an auditorium with multiple screens for
21 viewing motion pictures or television with a circular seating
22 arrangement.

23 Runge discloses a structure having a plurality of individual
24 theaters, but Runge does not disclose a theater with an upper, a
25 lower, and middle level for a projector, having separate
26 mezzanine and concession facilities for upper and lower level.

27 Graves teaches a dual screen single theater structure with
28 upper and lower viewing levels and a projection level in the

1 middle of the lower and upper seating levels.

2 Errato discloses a theater structure for live performances
3 using modular structures and partitions for patrons with a
4 balcony module that can be used or not used for a specific live
5 performance.

6 Pinto discloses a circular auditorium with a plurality of
7 television or motion picture screens with a circular seating area
8 for patrons.

9 It has been held that in determining the differences between
10 the prior art and the claims of an invention the question under
11 35 U.S.C. 103 is not whether the differences themselves would
12 have been obvious, but whether the claimed invention as a whole
13 would have been obvious. Stratoflex, Inc v. Aeroquip Corp 713
14 F.2d 1530, 218 USPQ 871 (Fed.Cir. 1983); Schenck v. Nortron Corp.
15 713 F.2d 782, 218 USPQ 698 (Fed.Cir. 1983)

16 In the present case Runge teaches a structure with a
17 plurality of individual theaters; Graves teaches a single theater
18 with multiple seating levels and dual screens for viewing
19 differently formatted motion pictures; Errato teaches a separate
20 balcony level; and Pinto teaches an auditorium with a plurality
21 of seating levels, a plurality of screens, and circular seating.

22 Combining the Runge concept of a plurality of individual
23 theaters in one building; the Graves concept of individual
24 theaters with separate viewing and projection levels; the Errato
25 concept of a stage made of modules and a seating area of
26 partitions; with the Pinto concept of one large auditorium with
27 multiple screens and circular seating would result in a structure
28 similar to that in present Claim 11. However, present Claim 11 is

1 more than just the sum of its parts because it provides a
2 theatrical structure that is adaptable to live audience
3 presentations, different formatted motion picture presentations,
4 and segregated viewing levels with separate mezzanine and
5 concession areas for each segregated viewing level. The present
6 invention as claimed in Claim 11 is more than just the sum of its
7 structural parts because it makes obsolete the Runge, Graves,
8 Errato, and Pinto structures. Further the present structure of
9 Claim 11 is adaptable to future technology such as plasma screens
10 and the like whereas this is not so with the Runge, Graves,
11 Errato, and Pinto structures taken individually or in
12 combination.

13 In the case In Re: Geiger 815 F.2d 686 (Fed.Cir. 1987) the
14 Court held:

15 Obviousness cannot be established by combining the
16 teachings of the prior art to produce the claimed
17 invention, absent some teaching, suggestion or
18 incentive supporting the combination.

19 The Runge objective is to save construction costs by housing
20 several theaters on one level in one building. The Graves
21 objective is to provide a single theater with dual screens having
22 two separate viewing levels and one projection level. There is
23 no teaching or motivation whatsoever to combine the two
24 references to result in the structure of Claim 11. Runge teaches
25 away from the present invention and Claim 11 by providing only
26 one viewing level in order to save construction costs. Graves
27 teaches away from Claim 11 of the present invention by providing
28 only one theater.

1 Clearly if it were obvious to combine the two references it
2 would already have been done, but the present invention is the
3 first to solve the problem of lowering construction costs by
4 housing multiple theaters in one building and also providing for
5 individual theaters, two segregated viewing levels, and separate
6 entrance and exit means to dual mezzanines.

7 Pinto teaches away from the present invention by disclosing
8 one giant auditorium with multiple screens and multiple viewing
9 levels which teaches away from having completely separate
10 theaters in one building. Errato teaches away from the present
11 invention by disclosing a structure suitable for live
12 performances not motion picture viewing.

13 In regard to Claim 12, there is no motivation or teaching to
14 combine the teachings of Runge and Graves in that Runge and
15 Graves teach away from the present invention as set forth above.

16 The structure of Claim 12 is more than the sum of its parts
17 in that it would eliminate the need for dual screens as disclosed
18 by Graves while solving the problem of lowering construction cost
19 as suggested by Runge and of providing for the viewing of
20 differently formatted motion pictures as suggested by Graves.

21 For Claim 13 the addition of seating for the disabled at
22 both the upper and the lower viewing levels to the structure of
23 Claim 11 is an addition to the basic structure which taken as a
24 whole makes obsolete all prior art and no motivation is present
25 for combining the Runge and Graves references.

26 For Claim 14 Graves teaches a sound system of multiple
27 speakers placed on a frame on the stage of the theater. This is
28 well known to produce dead spots of sound throughout the viewing

1 levels of the theater. The present invention discloses placement
2 of multiple speakers throughout the theater to eliminate dead
3 spots and solves the so called dead spot problem unrecognized by
4 Graves. Thus combining the two cited references would make the
5 present invention inoperable

6 For Claim 15 the combination of the Runge and Graves
7 references would not result in the present invention because
8 Graves discloses a dual screen theater and the present invention
9 teaches one screen for each motion picture format for each
10 theater.

11 Thus the present invention is basically more than just the
12 sum of its individual parts and makes all prior art obsolete
13 individually or in combination.

14 Clearly the results produced by the present invention have
15 long been sought in the prior art but prior to this invention
16 have not been produced.

17 For all of the foregoing reasons it is submitted that the
18 claims are in condition for allowance. Reconsideration of the
19 rejections and objections is requested. Allowance of claims 11
20 through 15 at an early date is requested.

21 Respectfully submitted.

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23 DATED:

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